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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 ANIL NAYYAR,
12 Plaintiff,
13 v.
14 ASIA STUCKEY-WHITE, WANDA
15 ASHLEY, and DOES 1 to 100,
16 Defendants.

No. 2:20-cv-0231-JAM-DB-PS

**SUA SPONTE ORDER REMANDING
ACTION TO STATE COURT**

17 The undersigned revokes any actual or anticipated referral
18 to a Magistrate Judge for the purposes of Findings and
19 Recommendations in this case. See Local Rule 302(d)
20 ("Notwithstanding any other provision of this Rule, a Judge may
21 retain any matter otherwise routinely referred to a Magistrate
22 Judge.").
23

24 On January 31, 2020, Defendants Asia Stuckey-White and Wanda
25 Ashley filed a Notice of Removal with this Court, seeking to
26 remove an action from Sacramento County Superior Court. Notice
27 of Removal, ECF No. 1. For the following reasons, the Court sua
28 sponte REMANDS this case to Sacramento County Superior Court.

1 Under 28 U.S.C. § 1441(a), a defendant may remove an action
2 to federal court if the district court has original jurisdiction.
3 Hunter v. Phillip Morris USA, 582 F.3d 1039, 1042 (9th Cir. 2009)
4 (quoting Ansley v. Ameriquest Mortg. Co., 340 F.3d 858, 861 (9th
5 Cir. 2003)). If at any time before final judgment it appears
6 that the district court lacks subject matter jurisdiction, the
7 case shall be remanded. 28 U.S.C. § 1447(c). Generally, a
8 defendant seeking to remove an action to federal court must file
9 a notice of removal within thirty days of receiving a copy of the
10 initial pleading. 28 U.S.C. § 1446(b). A defendant seeking
11 removal of an action to federal court has the burden of
12 establishing federal jurisdiction in the case. California ex
13 rel. Lockyer v. Dynegy, Inc., 375 F.3d 831, 838 (9th Cir. 2004).

14 Defendants attempt to remove an unlawful detainer action
15 under 28 U.S.C. § 1331. Notice of Removal at 2. They contend
16 this Court has federal question jurisdiction because the
17 Protecting Tenants at Foreclosure Act, 12 U.S.C. § 5220,
18 "preempted State Law as to bona fide Residential tenants of
19 foreclosed Landlords." Id. (citing Florida Lime & Growers, Inc.
20 v. Paul, 373 U.S. 132 (1963)). Defendants contend this suit
21 arises under federal law because Plaintiff's eviction did not
22 comport with PFTA's requirements. Id. at 2-3.

23 Federal courts are courts of limited jurisdiction and lack
24 inherent or general subject matter jurisdiction. Federal courts
25 can adjudicate only those cases authorized by the United States
26 Constitution and Congress. Generally, those cases involve
27 diversity of citizenship or a federal question, or cases in which
28 the United States is a party. Kokkonen v. Guardian Life Ins.

1 Co., 511 U.S. 375 (1994); Finley v. United States, 490 U.S. 545
2 (1989). Federal courts are presumptively without jurisdiction
3 over civil actions. Kokkonen, 511 U.S. at 377. Lack of subject
4 matter jurisdiction is never waived and may be raised by the
5 Court sua sponte. Attorneys Trust v. Videotape Computer Prods.,
6 Inc., 93 F.3d 593, 594-95 (9th Cir. 1996). "Nothing is to be
7 more jealously guarded by a court than its jurisdiction.
8 Jurisdiction is what its power rests upon. Without jurisdiction
9 it is nothing." In re Mooney, 841 F.2d 1003, 1006 (9th Cir.
10 1988).

11 The Ninth Circuit has held that the removal statute should
12 be strictly construed in favor of remand and against removal.
13 Harris v. Bankers Life and Cas. Co., 425 F.3d 689, 698 (9th Cir.
14 2005). The "strong presumption" against removal jurisdiction
15 means that the defendant always has the burden of establishing
16 that removal is proper. Nishimoto v. Federman-Bachrach &
17 Assocs., 903 F.2d 709, 712 n.3 (9th Cir. 1990); Emrich v. Touche
18 Ross & Co., 846 F.2d 1190, 1195 (9th Cir. 1988). Federal
19 jurisdiction must be rejected if there is any doubt as to the
20 right of removal in the first instance. Gaus v. Miles, Inc., 980
21 F.2d 564, 566 (9th Cir. 1992).

22 In this case, Defendants are unable to establish subject
23 matter jurisdiction before this Court because the complaint filed
24 in the state court contains a single cause of action for unlawful
25 detainer based on California Code of Civil Procedure § 415.45.
26 Unlawful detainer actions are strictly within the province of
27 state court. Defendants' argument that Plaintiff's complaint
28 improperly designates a PFTA claim as an unlawful detainer claim

1 does not persuade the Court. See Notice of Removal at 4. A
2 defendant's attempt to create federal subject matter jurisdiction
3 by adding claims or defenses to a notice of removal will not
4 succeed. Vaden v. Discover Bank, 556 U.S. 49, 50 (2009) (federal
5 question jurisdiction cannot "rest upon an actual or anticipated
6 counterclaim"); Valles v. Ivy Hill Corp., 410 F.3d 1071, 1075
7 (9th Cir. 2005) ("A federal law defense to a state-law claim does
8 not confer jurisdiction on a federal court, even if the defense
9 is that of federal preemption and is anticipated in the
10 plaintiff's complaint.").

11 In determining the presence or absence of federal
12 jurisdiction in removal cases, the "well-pleaded complaint rule"
13 applies, "which provides that federal jurisdiction exists only
14 when a federal question is presented on the face of the
15 plaintiff's properly pleaded complaint." Caterpillar Inc. v.
16 Williams, 482 U.S. 386, 392 (1987). Moreover, "it is well
17 established that plaintiff is the 'master of her complaint' and
18 can plead to avoid federal jurisdiction." Lowdermilk v. U.S.
19 Bank Nat'l Ass'n, 479 F.3d 994, 998-99 (9th Cir. 2007); Metro.
20 Life Ins. Co. v. Taylor, 481 U.S. 58, 63 (1987) (citing Gully v.
21 First Nat'l Bank, 299 U.S. 109 (1936)) ("It is long settled law
22 that a cause of action arises under federal law only when the
23 plaintiff's well-pleaded complaint raises issues of federal
24 law.").

25 Plaintiff's complaint raises a single state law claim. The
26 face of a properly-pled state law unlawful detainer action does
27 not present a federal question. Therefore, Plaintiff's complaint
28 avoids federal question jurisdiction. Defendants cannot inject a

1 federal issue through their answer or demurrer.

2 Accordingly,

3 1. This action is remanded forthwith to the Sacramento
4 County Superior Court for lack of subject matter
5 jurisdiction;

6 2. Defendants' motion to proceed in forma pauperis, ECF No.
7 3, is DENIED as moot; and

8 3. The Clerk of the Court is directed to close this case.

9 IT IS SO ORDERED.

10 Dated: January 31, 2020

/s/ John A. Mendez

11 HONORABLE JOHN A. MENDEZ

12 United States District Court Judge